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***Via Certified Mail -
Return Receipt Requested***

March 10, 2015

Susan Klassen, Director
County of Sonoma –
Dept. of Transportation and Public Works
2300 County Center Drive, Suite B-100
Santa Rosa, CA 95403

Trish Pisenti, Operations Manager
Central Disposal Site
500 Mecham Road
Petaluma, CA 94952

County of Sonoma Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

Michael Caprio, Area President
Keller Canyon Landfill Company
901 Bailey Road
Pittsburg, CA 94565

Donald W. Slager, President and CEO
Republic Services, Inc.
18500 N. Allied Way Suite 100
Phoenix, AZ 85054

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act (Clean Water Act)**

Dear Mmes. Klassen and Pisenti, Messrs. Caprio and Slager, and Members of the Board
of Supervisors:

NOTICE

This Notice is provided on behalf of California River Watch (“River Watch”) in regard to violations of the Federal Water Pollution Control Act or Clean Water Act (the “CWA” or “Act”) 33 U.S.C. § 1251 *et seq.*, which River Watch believes are occurring as a result of landfill operations taking place at the Central Disposal Site at 500 Mecham Road in Petaluma. Notice is being sent to you as the responsible owners, operators, lessees, and/or managers of this facility and property. This Notice addresses violations of

the Act including violation of the terms of the General California Industrial Storm Water Permit, and the unlawful discharge of pollutants from the Central Disposal Site landfill facility into Stemple Creek, which flows to the Estero de San Antonio, Bodega Bay, and the Pacific Ocean.

CWA § 505(b) requires a citizen to give notice of the intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“EPA”), and the state in which the violations occur.

As required by the Act, this Notice provides notice of the violations that have occurred, and continue to occur, at the Central Disposal Site landfill facility. Consequently, the Sonoma County Department of Transportation and Public Works, Sonoma County Board of Supervisors, Central Disposal Site, Keller Canyon Landfill Company and Republic Services, Inc., hereinafter referred to collectively as “the Discharger” is placed on formal notice by River Watch that after the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, National Pollutant Discharge Elimination System (“NPDES”) permit condition or requirement, or Federal or State Order issued under the Act (in particular, but not limited to, CWA §§ 301(a), 402(p), and 505(a)(1)), as well as the failure to comply with requirements set forth in the Code of Federal Regulations and the North Coast Regional Water Quality Control Board (“RWQCB”) Water Quality Control Plan or “Basin Plan.”

The Act requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement, River Watch notices the Discharger of ongoing violations of the substantive and procedural requirements of CWA § 402(p) and violations of NPDES Permit No. CAS000001, State Water Resources Control Board Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (the “General Permit”) relating to recycling and disposal services at the Central Disposal Site facility.

The Act prohibits storm water discharges without a permit. 33 U.S.C. § 1342; 40 C.F.R. § 122.26. The General Permit prohibits the discharge of material other than storm water to waters of the United States which causes or threatens to cause pollution,

contamination, or nuisance. The General Permit also prohibits the discharge of storm water to surface water or groundwater that adversely impacts human health or the environment. Discharges from the Central Disposal Site, hereinafter referred to as the "Landfill," contain metals, volatile organic compounds, petroleum, toxins and nutrients which adversely impact the environment including Stemple Creek and its tributaries, the Estero de San Antonio, Bodega Bay, and the Pacific Ocean. Violations of the General Permit are violations of the Act, specifically CWA § 301(a) and CWA § 402(p).

The Discharger filed a Notice of Intent ("NOI") with respect to the Landfill, agreeing to comply with the terms and conditions of the General Permit. The State Water Resources Control Board approved the NOI on April 21, 1992, and the Discharger was assigned Waste Discharger Identification ("WDID") number 149I006101. River Watch contends that in its operations of the Landfill, the Discharger has failed and is failing to comply with the terms and conditions of the General Permit requiring the preparation, implementation, review and update of an adequate Storm Water Pollution Prevention Plan ("SWPPP"), the elimination of all non-authorized storm water discharges, and the development and implementation of an adequate monitoring and reporting program.

Compliance with the monitoring and reporting program is central to the effectiveness of the General Permit program. The Discharger, however, has failed and is failing to comply with the following General Permit requirements as detailed in the Annual Reports for the Landfill submitted in reporting years 2010-2011 through 2013-2014:

- a. SWPPP and Monitoring Program Requirements Were Not Properly Prepared and Implemented in the 2010-2011 through 2013-2014 Annual Reporting Years

The General Permit requires any discharger in operation prior to October 1, 1992, to have developed and implemented a SWPPP no later than that date and to regularly update the SWPPP in order to meet site specific demands and conditions.

The Annual Report form, in the Section titled *Specific Information*, "Annual Comprehensive Site Compliance Evaluation (ACSCE)," H. ACSCE Checklist, Subparagraph 2, asks "Have you reviewed your SWPPP to assure that its BMPs address existing potential pollutant sources and industrial activities areas?" Assuming the Discharger has prepared a SWPPP, it fails to ensure that the Best Management Practices ("BMPs") address the elimination of the pollutant discharges identified in the Annual Reports and Laboratory Analyses for the Landfill as alleged below.

Information available to River Watch indicates the Discharger has not fully developed and/or adequately implemented a SWPPP for its operations at the Landfill, as evidenced by the fact that the Discharger has failed to eliminate non-storm water discharges from landfill operations on the Landfill and failed to reduce pollutants in storm water to below EPA benchmarks. For example, aluminum, iron, and specific conductance – not naturally in rain water – are consistently detected in storm water discharges over EPA benchmarks, indicating a failure to implement adequate BMPs. Activities on the Landfill site result in discharges of pollutants. The Discharger has been and will continue to be in violation of the Act every day it discharges unauthorized non-storm water and every day it discharges storm water containing pollutants as identified below without adequately implementing its SWPPP and the BMPs required to be in that SWPPP. Storm water on the Landfill site comes in contact with refuse and other industrial operations which cause it to be polluted by chemicals, metals, hospital waste, dead animals, etc. Some of these constituents are collected in sediment basins, and are then discharged in violation of limits and prohibitions of the General Permit.

b. Non-compliance with General Permit Storm Water Controls in the 2010-2011 through 2013-2014 Annual Reporting Years

River Watch believes and hereby alleges that discharges from the Landfill to Stemple Creek exceed EPA benchmark limits, intended to protect human health and the environment, and thereby violate the Waste Discharge Requirements Order issued for the Landfill (WDR Order No. R1-2013-0003) and the General Permit. For example, zinc has been detected repeatedly in discharges of storm water in quantities far exceeding the EPA benchmark for zinc and has been found downstream at hazardous levels in Stemple Creek. Monitoring often indicates that storm water is contaminated by industrial processes, including some instances of diesel oil and toluene.

The Annual Report form, in the Section titled *Specific Information*, “Annual Comprehensive Site Compliance Evaluation (ACSCE),” I. ACSCE Evaluation Report, requires “[t]he facility operator ... to provide an evaluation report that includes ... any incidents of non-compliance and the corrective actions taken.” River Watch alleges that the Discharger has failed and is failing to eliminate the ongoing discharges of polluted storm water in exceedance of EPA Benchmarks, and therefore is in violation of the terms of the General Permit, for the following representative pollutants:

2013-2014 Reporting Year

Specific Conductance – 1,100; 1,000; 754; 719; 359
Chemical Oxygen Demand (mg/L) – 550; 170

Aluminum (mg/L) – 0.81; 4.9; 4.1; 1.7
Iron (mg/L) – 5.4; 3.4; 1.7
Zinc (mg/L) – 0.32; 0.19

2012-2013 Reporting Year

Specific Conductance (umhos/cm) – 990; 910; 760; 580; 540; 440
Chemical Oxygen Demand (mg/L) – 160
Aluminum (mg/L) – 1.9; 1.9
Iron (mg/L) – 2.4; 1.9; 1.2

2011-2012 Reporting Year

Specific Conductance (umhos/cm) – 990; 880; 670; 530; 440; 410
Total Suspended Solids (mg/L) – 410; 170
Aluminum (mg/L) – 6.2; 2.5; 2.3; 2.0
Iron (mg/L) – 7.2; 3.3; 1.9; 1.8
Zinc (mg/L) – 0.27
Chemical Oxygen Demand (mg/L) – 660

2010-2011 Reporting Year

Specific Conductance (umhos/cm) – 950; 910; 570; 460; 370; 160
Total Suspended Solids (mg/L) – 1,100; 160
Aluminum (mg/L) – 40; 15; 1.4; 0.92
Iron (mg/L) – 54; 19; 1.4; 1.3
Zinc (mg/L) – 0.26; 0.17
Chemical Oxygen Demand (mg/L) – 180

EPA Benchmarks for the listed pollutants are: aluminum 0.75 mg/L; iron 1.0 mg/L; zinc 0.117 mg/L; chemical oxygen demand 120 mg/L; specific conductance 200 umhos/cm; total suspended solids 100 mg/L.

Additionally, petroleum hydrocarbons (diesel oil), were detected during reporting years 2013-2014 (0.14 µg/L), 2012-2013 (67 µg/L), and 2011-2012 (130 µg/L and 110 µg/L). Toluene, a volatile organic compound present in runoff from the Landfill, was reported during years 2012-2013 (0.80 µg/L), and 2010-2011 (1.0 µg/L). These detections, as well as consistently high aluminum, iron, and specific conductance raise significant concerns regarding the ability of the Discharger to control storm water, leachate generation, and ground water protection at and surrounding the Landfill facility.

c. Certification of Compliance With the General Permit for the 2010-2011 through 2013-2014 Annual Reporting Years

The Annual Report form, in the Section titled *Specific Information*, “Annual Comprehensive Site Compliance Evaluation (ACSCE),” J. ACSCE Certification requires facilities covered under the General Permit to state “[b]ased on your ACSCE, do you certify compliance with the Industrial Activities Storm Water General Permit?” The alleged failures to fully and accurately ensure compliance with the requirements of the General Permit as detailed above would contradict both the “ACSCE Certification” and a signed “Annual Report Certification”, which provides that the signer of the Annual Report attests that the “information submitted is, to the best of my knowledge and belief, true, accurate and complete.”

2. *The activity alleged to constitute a violation.*

The Landfill is located on approximately 398 acres in southern Sonoma County. Currently, the Landfill, owned by the County of Sonoma and operated by Keller Canyon Landfill Company, Inc., a subsidiary of Republic Services, Inc., receives most of Sonoma County’s waste and sludge. The Landfill accepts up to 2,500 tons of refuse per day, including low-level contaminated soils, autoclaved medical waste, and de-watered sludge from sewer plants, among other wastes. A large portion of the Landfill is subject to rainfall events, and portions of the site have not been lined to protect groundwater. Storm water percolates in and around refuse and travels across areas of Landfill operations comingling with contaminants and refuse before it is collected in storm water sediment basins. Contaminated storm water is then discharged from basins in at least three locations.

The Landfill is directly adjacent to tributaries of Stemple Creek which flows into the Estero de San Antonio, then to Bodega Bay and the Pacific Ocean – all waters of the United States. Stemple Creek and its tributaries are listed as impaired for sediment and nutrients under Clean Water Act § 303(d). Two unnamed tributaries of Stemple Creek also run through the Landfill site. The RWQCB has established applicable water quality standards. This Basin Plan includes a narrative toxicity standard and a narrative oil and grease standard. The Basin Plan provides that “[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.” Beneficial uses of Stemple Creek include non-contact water recreation; cold freshwater habitat; commercial and sport fishing; wildlife habitat; estuarine habitat; rare, threatened or endangered species spawning; reproduction and/or early development, and preservation of areas of special biological significance.

River Watch alleges that activities and landfill operations on the Landfill contaminate groundwater in violation of the General Permit. Groundwater often makes its way to the ground surface in seeps – highly contaminated water uncontrolled by the Discharger. Contaminated groundwater migrates down slope to the tributaries and main stem of Stemple Creek.

Streams in California are a major source of groundwater recharge. Despite having a leachate collection and removal system (“LCRS”) in place, leachate migration and contamination of the groundwater has occurred at the Landfill. In addition to EPA benchmarks, Maximum Contamination Levels (hereafter “MCLs”) for drinking water are applicable. Sampling of groundwater wells has returned detections of pollutants in excess of state and federal MCLs, including those for benzene, toluene, 1,2,4-trimethylbenzene, 1,4-dichlorobenzene, and 4-isopropyltoluene. The Landfill is located near agricultural operations, including dairy and cattle ranches. Residences and domestic drinking water wells are down slope such that leachate migration is contaminating drinking water. Existing and potential beneficial uses applicable to groundwater in the region of the Landfill include municipal and domestic water supply, reflecting the importance of groundwater as a source of drinking water as required by the Basin Plan (See Appendix 7).

On February 12, 2013, the Sonoma County Dept. of Transportation and Public Works was notified of many instances of discharges and threatened discharges of leachate and sediment into waters of the United States at the Landfill “from daily landfilling activities”, in violation of its Waste Discharge Requirements Order. The following week, RWQCB staff inspected the Landfill facility and found numerous areas of waste discharge and water quality violations, including inadequate erosion control and rainy season preparation efforts, visible leachate seeps, and inadequate containment of mixed waste materials – all in violation of the General Permit. Areas of concern related to erosion were found at various sites on landfill 1 and 2 during a December 15, 2014 inspection of the Landfill by the County of Sonoma. Erosion was also observed at the edge of the open Landfill area. On December 20, 2014, a leachate seep was identified on the south slope of landfill 1. Furthermore, the Discharger’s 2013-2014 Annual Report filed with the RWQCB acknowledges materials entering the storm water runoff stream from the metals recycling area and the household hazardous waste area.

River Watch believes and hereby alleges that the Discharger has no individual NPDES permit allowing it to discharge pollutants from a point source within the Landfill to any waters of the United States. River Watch believes and hereby alleges that landfill operation and activities on the Landfill, separate from composting activities, result in the discharge of industrial wastewater without a permit. The sampling results detailed above

indicate that polluted storm water continues to be discharged from the Landfill to waters of the United States; and that the LCRS is unsuccessful in preventing releases of leachate generated by the Landfill to the ground water or offsite.

The work at the Landfill is conducted both indoors and outdoors. Because the property on which the Landfill is located is subject to rain events, and because there is no RWQCB exemption from collecting and analyzing the range of pollutants identified above, there can be a discharge of these pollutants to Stemple Creek.

To properly regulate these activities and control the discharge of these types of pollutants, the State Water Resources Control Board requires industrial facilities to obtain and comply with the terms and conditions of an individual NPDES permit, or seek coverage under the General Permit (or obtain a proper exemption under the terms of the General Permit from its requirements). Review of the public record by River Watch reveals that the Discharger obtained coverage under the General Permit but fails to comply with its environmentally protective requirements, in particular the implementation of effective BMPs.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the County of Sonoma, as the owner of the Landfill, the Keller Canyon Landfill Company, Inc., a subsidiary of Republic Services, Inc., as the operator of the Landfill, and Republic Services, Inc., the operator of the Landfill as of April 1, 2015, as well as those employees of the Discharger responsible for compliance with the General Permit.

4. *The location of the alleged violation.*

The location of the various violations of the CWA addressed in this Notice is the permanent address of the Landfill, 500 Mecham Road in Petaluma, California, including the waters of Stemple Creek, the Estero de San Antonio, Bodega Bay, and the Pacific Ocean – all waters of the United States.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

The range of dates covered by this Notice is from March 1, 2010 through March 1, 2015. River Watch will from time to time further update this Notice to include all violations which occur after the range of dates covered by this Notice. Some of the violations are continuous in nature, and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd. #422, Los Angeles, CA 90043. River Watch is dedicated to protect, enhance, and help restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna. And to educate the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

Jack Silver, Esquire
Law Offices of Jack Silver
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STATUTORY BACKGROUND

CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless such discharge is in compliance with various enumerated sections of the Act. Among other things, CWA § 301(a) prohibits discharges not authorized by, or in violation of, the terms of an individual NPDES permit or a general NPDES permit issued pursuant to CWA § 402(p), 33 U.S.C. § 1342.

CWA § 402(p), 33 U.S.C. § 1342(p) establishes a framework for regulating storm water discharges under the NPDES program. States with approved NPDES permitting programs are authorized under this section to regulate storm water discharges through permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all storm water dischargers. Pursuant to CWA § 402, the Administrator of the U.S. EPA has authorized California's State Water Resources Control Board ("SWRCB") to issue NPDES permits, including general NPDES permits in California.

The SWRCB elected to issue a statewide general permit for discharges of storm water associated with industrial activities, NPDES Permit No. CAS000001, State Water Resources Control Board Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ. The General Permit was issued on or about November 19, 1991, modified on or about September 17, 1992, and reissued on or about April 17, 1997, pursuant to CWA § 402(p).

In order to discharge storm water lawfully in California, industrial dischargers must comply with the terms of the General Permit or have obtained an individual NPDES permit and complied with its terms.

The General Permit contains certain absolute prohibitions. Discharge Prohibition Order Section A(1) of the General Permit prohibits the direct or indirect discharge of materials other than storm water (“non-storm water discharges”), which are not otherwise regulated by a NPDES permit, to waters of the United States. Discharge Prohibition Order Section A(2) prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation Order Section C(1) prohibits storm water discharges to any surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation Order Section C(2) prohibits storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Water Quality Control Board Basin Plan.

In addition to absolute prohibitions, the General Permit contains a variety of substantive and procedural requirements that dischargers must meet. Facilities discharging, or having the potential to discharge, storm water associated with industrial activity that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a NOI. The General Permit requires existing dischargers to file NOIs before March 30, 1992.

Dischargers must also develop and implement a SWPPP which must comply with the standards of BAT and BCT. The SWPPP must, among other requirements:

- Identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges [Permit Section A(2)]. BMPs must implement BAT and BCT [Permit Section B(3)].

- Include a description of individuals and their responsibilities for developing and implementing the SWPPP [Permit Section A(3)]; a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity [Permit Section A(4)]; a list of significant materials handled and stored at the site [Permit Section A(5)]; and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, and a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur [Permit Section A(6)].
- Include a narrative assessment of all industrial activities and potential pollutant sources at the facility [Permit Section A(7)]. Include a narrative description of the BMPs to be implemented at the facility for each potential pollutant and its source, and consider both non-structural BMPs (including “Good Housekeeping”) and structural BMPs where non-structural BMPs are not effective [Permit Section A(8)].
- Conduct one comprehensive site compliance evaluation by the facility operator in each reporting period (July 1- June 30), with SWPPP revisions made, as appropriate, and implemented within 90 days of the evaluation [Permit Section A(9)].

The General Permit requires dischargers to eliminate all non-storm water discharges to storm water conveyance systems other than those specifically set forth in Special Condition D(1)(a) of the General Permit and meeting each of the conditions set forth in Special Condition D(1)(b).

As part of their monitoring program, dischargers must identify all storm water discharge locations that produce a significant storm water discharge, evaluate the effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control measures set out in the SWPPP are adequate and properly implemented. Dischargers must conduct visual observations of these discharge locations for at least one storm per month during the wet season (October through May) and record their findings in their Annual Report [Permit Section B(14)]. Dischargers must also collect and analyze storm water samples from at least two storms per year in compliance with the criteria set forth in Permit Section B(5). Dischargers must also conduct dry season visual observations to identify sources of non-storm water pollution in compliance with Permit

Section B(7).

Permit Section B(14) of the General Permit requires dischargers to submit an "Annual Report" by July 1 of each year to the executive officer of the relevant Regional Water Quality Control Board. Permit Section A(9)(d) of the General Permit requires the dischargers to include in the annual report an evaluation of the dischargers storm water controls, including certifying compliance with the General Permit. *See also* Permit Sections C(9), C(10) and B(14).

The EPA has established Parameter Benchmark Values ("EPA Benchmarks") as guidelines for determining whether a facility discharging storm water has implemented the requisite BAT and BCT. (65 Fed. Reg. 64746, 64767 (Oct. 30, 2000)). California Toxics Rule ("CTR") limitations are also applicable to all non storm water and storm water discharges. (40 C.F.R. part 131).

The RWQCB has established applicable water quality standards. This Basin Plan includes a narrative toxicity standard and a narrative oil and grease standard. The Basin Plan provides that "Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses." The Basin Plan establishes limits on metals, solvents, pesticides and other hydrocarbons.

VIOLATIONS

River Watch contends that between March 1, 2010 and March 1, 2015, the Discharger violated the CWA, the Basin Plan and the Code of Federal Regulations by discharging pollutants from the Landfill to waters of the United States without an individual NPDES permit, or in violation of the General Permit. Furthermore, River Watch contends these violations are continuing. The violations discussed herein are derived from records publicly available, or records in the possession and control of the Discharger.

Discharges from the Landfill site to adjacent tributaries of Stemple Creek occur both directly and indirectly. Direct and unpermitted discharges of polluted storm water occur to intermittent drainages, and to Stemple Creek via its tributaries. Drainages and pollutants move subsurface to the surface waters via tributary groundwater which is hydrologically connected to surface waters.

Since the beginning of operations, the Discharger has discharged storm water containing pollutants and non-storm water pollutants from the Landfill site into Stemple Creek and its tributaries, in violation of the General Permit, during at least every rain

event over 1 inch as measured by the National Oceanographic and Atmospheric Administration. The Discharger will continue to be in violation of the General Permit each day it discharges non-storm water pollutants and contaminated storm water from the Landfill and sludge operations which cause or threaten to cause pollution, contamination or nuisance or which adversely impact human health or the environment.

In addition to discharges from point sources within the Landfill, under the Clean Water Act the Landfill itself is a point source discharging via tributary ground waters to Stemple Creek. Due to the hydrological connection between the waste disposal site and waters of the United States, unpermitted non-storm water discharges occur every day in violation of the General Permit. This Notice alleges continuous violations occurring from March 1, 2010 through March 1, 2015.

Finally, River Watch also believes the Landfill is not operated to ensure that storm and non-storm water discharges are properly contained, controlled, and/or monitored. As a result, the Discharger fails to follow the requirements of the General Permit in its sampling protocols by failing to accurately capture “first flush” samples and failing to properly sample from all the outfalls of the Landfill facility.

REMEDIAL MEASURES REQUESTED

River Watch believes that implementation of the following remedial measures are necessary in order to bring the Discharger into compliance with the CWA and reduce the biological impacts of its non-compliance upon public health and the environment surrounding the Landfill facility:

1. Prohibition of the discharges of pollutants including, but not limited to, petroleum hydrocarbons, oil and grease, accumulated particulate matter, BOD, TSS, and heavy metals (including aluminum, iron, lead, copper and zinc) from the “recycling systems” operated at the Landfill facility.
2. Compliance with the terms and conditions of the General Permit, and BMPs detailed in the EPA’s Industrial Stormwater Fact Sheet Series, “Sector N: Scrap Recycling and Waste Recycling Facilities” (EPA Office of Water, EPA-833-F-06-029, December 2006));([www.epa.gov/npdes/pubs/sector n scraprecycling.pdf](http://www.epa.gov/npdes/pubs/sector_n_scraprecycling.pdf)).
3. Compliance with the storm water sampling, monitoring and reporting requirements of the General Permit.

4. Sampling of storm water at least four (4) times per year over each of the next five (5) years: at “first flush”; the first significant rain after “first flush”; the first significant rain after April 1; and the second significant rain after April 1.
5. 100% of the discharge from the Landfill must be discharged through discrete conveyances.
6. Any discharge from the Landfill to a water of the United States must be sampled during the four (4) sampling events identified in paragraph #4 above.
7. Preparation and submittal to the RWQCB of a “Reasonable Potential Analysis” for the Landfill site and its operations.
8. Preparation of an updated SWPPP including a monitoring program, with a copy provided to River Watch.

CONCLUSION

CWA § 505(a)(1) and 505(f) provide for citizen enforcement actions against any “person,” including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. § 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. § 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1-19.4.

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the Stemple Creek watershed. Members of River Watch use the watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger’s violations of the CWA as set forth in this Notice. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the citizen suit provisions of the CWA to obtain the relief provided for under the law.

The CWA specifically provides a 60-day notice period to promote resolution of disputes. River Watch strongly encourages the Discharger contact River Watch within 20 days after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the Discharger is in compliance with the strict terms and conditions of

the General Permit, River Watch intends to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Sincerely,


Jack Silver

JS:lhbm

cc:

Administrator

U.S. Environmental Protection Agency

Ariel Rios Building

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

✓ Regional Administrator

U.S. Environmental Protection Agency Region 9

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Executive Director

State Water Resources Control Board

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